

AUTHORIZATION TO DISCHARGE UNDER THE
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

In compliance with the provisions of the Federal Water Pollution Control Act, as amended, (33 U.S.C. 1251 et. seq.; the "Act"),

BHP Billiton LNG International Inc.
300 Esplanade Drive, Suite 1800
Oxnard, California 93036

is authorized to discharge:

Ballast Water (Discharge 001)
Deck Drainage (Discharge 002)
Gray Water (Discharge 003)
Sanitary Wastes (Discharge 004)
Desalination Unit Wastes (Discharge 005)
Non-contact Cooling Water (Discharge 006)
Fire Control System Test Water (Discharge 007)
Bilge Water (Discharge 008)

from the Cabrillo Deepwater Port, located at the following coordinates: latitude - 33° 51.52', and longitude - 119° 02.02', to Federal waters of the Pacific Ocean beyond the territorial seas of the State of California, in accordance with effluent limitations, monitoring requirements and other conditions set forth in Parts I and II hereof.

This permit shall become effective on
or on such date, whichever is later, when the permittee provides EPA with a certification, concurred upon by the California Coastal Commission, that the activity is consistent with the approved California Coastal Management Program, or a determination by the Commission staff that the activity would not affect the coastal zone. This permit and the authorization to discharge shall expire at midnight, *five years after the effective date*.

Signed this day of 2006

For the Regional Administrator

Alexis Strauss
Director, Water Division

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A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

1. During the period beginning the effective date of this permit and lasting through the expiration date of this permit, the permittee is authorized to discharge from outfall serial number 001 (ballast water). Such discharges shall be limited and monitored as specified below:

Effluent Characteristic	Discharge Limitation	Measurement Frequency	Sample Type/Method	Reported Values
Flow rate (gallons/day)	--N/A--	Monthly	Estimate	Monthly average
Free oil	No discharge	Daily, during discharge	Visual/sheen on receiving water*	Number of days sheen observed
Foam or floating solids	No discharge	Daily, during discharge	Visual observation*	Number of days foam or floating solids observed
pH	6-9 standard units	Once/week	Grab**	Maximum, minimum, and monthly average pH values
Nitrate-N	N/A	Monthly	Grab**	Monthly value

*Monitoring by visual observation of the surface of the receiving water in the vicinity of the outfall shall be conducted during daylight hours.

**A grab sample of the submerged combustion vaporizer (SCV) wastewater shall be analyzed prior to mixing with seawater in the ballast tanks.

- a. EPA Priority Pollutant Scan: approximately one month after the initiation of SCV wastewater discharges as part of the ballast water discharges, the permittee shall sample the SCV wastewater (one grab sample) and analyze the sample for EPA priority toxic pollutants (see Attachment A to this permit). The test results shall be submitted to EPA not later than three months after initiation of SCV discharges. This permit may be reopened to establish additional effluent limitations or additional monitoring requirements if the test results indicate that the discharges may cause or contribute to an exceedance of applicable EPA marine water quality criteria, or California Ocean Plan objectives, whichever is more stringent.

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2. During the period beginning the effective date of this permit and lasting through the expiration date of this permit, the permittee is authorized to discharge from outfall serial number 002 (deck drainage). Such discharges shall be limited and monitored as specified below:

Effluent Characteristic	Discharge Limitation	Measurement Frequency	Sample Type/Method	Reported Values
Flow rate (gallons/day)	--N/A--	Monthly	Estimate	Monthly average
Free oil	No discharge	Daily, during discharge	Visual/sheen on receiving water*	Number of days sheen observed

*Monitoring by visual observation of the surface of the receiving water in the vicinity of the outfall shall be conducted during daylight hours.

3. During the period beginning the effective date of this permit and lasting through the expiration date of this permit, the permittee is authorized to discharge from outfall serial number 003 (gray water). Such discharges shall be limited and monitored as specified below:

Effluent Characteristic	Discharge Limitation	Measurement Frequency	Sample Type/Method	Reported Values
Flow rate (gallons/day)	--N/A--	Monthly	Estimate	Monthly average
Foam or floating solids	No discharge	Daily, during discharge	Visual observation*	Number of days foam or floating solids observed

*Monitoring by visual observation of the surface of the receiving water in the vicinity of the outfall shall be conducted during daylight hours.

4. During the period beginning the effective date of this permit and lasting through the expiration date of this permit, the permittee is authorized to discharge from outfall serial number 004 (sanitary wastes). Such discharges shall be limited and monitored as specified below:

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Effluent Characteristic	Discharge Limitation*	Measurement Frequency	Sample Type/Method	Reported Values
Flow rate (gallons/day)	--N/A--	Monthly	Estimate	Monthly average
Total residual chlorine	Minimum of 1 mg/l and maintained as close to this concentration as possible; maximum concentration is 10 mg/l	Monthly	Grab	Concentration in mg/l

*Discharges from a properly operated and maintained marine sanitation device (MSD) that was certified by the United States Coast Guard under Section 312 of the Act shall be deemed to be in compliance with discharge limitations for sanitary wastes and the monitoring requirements for total residual chlorine would not apply. The MSD shall be inspected yearly for proper operation, and the inspection results shall be maintained with the permit records.

5. During the period beginning the effective date of this permit and lasting through the expiration date of this permit, the permittee is authorized to discharge from outfall serial numbers 005 (desalination unit discharges); 006 (non-contact cooling water); 007 (fire control system test water); and 008 (bilge water). Such discharges shall be limited and monitored as specified below:

Waste Type	Effluent Characteristic	Discharge Limitation	Measurement Frequency	Sample Type/Method	Reported Values
Noncontact cooling water, bilge water	Flow rate (gallons/day)	--N/A--	Monthly	Estimate	Monthly average
Noncontact cooling water	Total residual chlorine	See Part I.A.5.a	Once/month	Grab	Concentration in ug/l
	Intake structure requirements	See Part I.A.5.b	See Part I.A.5.b	See Part I.A.5.b	See Part I.A.5.b

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Bilge water	Free oil	No Discharge	Daily, during discharge	Visual/sheen on receiving water*	Number of days sheen observed
Discharges 005-008	Floating solids or foam	No discharge	Once/day	Visual observations*	Number of days floating solids or foam observed

*Monitoring by visual observation of the surface of the receiving water in the vicinity of the outfall shall be conducted during daylight hours.

a. This permit may be reopened and modified to establish additional effluent limitations or additional monitoring requirements if test results for chlorine indicate that the discharges may cause or contribute to an exceedance of applicable EPA marine water quality criteria for chlorine (which are 7.5 ug/l for the criteria continuous concentration and 13.0 ug/l for the criteria maximum concentration).

b. Cooling Water Intake Structure Requirements.

i. Intake Velocity. The cooling water intake structure shall be designed to ensure a maximum through-screen design intake velocity not to exceed 0.5 feet/second. Compliance with this requirement shall be demonstrated by either: 1) submitting design calculations to EPA prior to facility start-up showing compliance, or 2) by conducting velocity monitoring at the start-up of the facility and submitting the monitoring results with the quarterly discharge monitoring report (see Part I.D below) which covers the period in which the monitoring activities occur.

ii. Intake Structure Design. The cooling water intake structure shall be designed and constructed using the best technology available to minimize adverse environmental impacts due to impingement and entrainment of marine organisms. At a minimum, horizontal flow diverters and flat panel wedgewire screens (with a maximum screen slot width of 1.75 mm) shall be included in the design. A description of the intake structure design shall be submitted to EPA prior to start-up of the facility. This permit may be reopened and modified to establish additional requirements if, based on the submitted information, Region 9 determines that the discharges may cause unreasonable degradation of the marine environment or the intake design does not meet the minimum technology requirements of the Clean Water Act.

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B. OTHER DISCHARGE LIMITATIONS

The discharge of garbage (defined in Part I.E) is prohibited, with the exception that comminuted food waste (able to pass through a 25 mm mesh screen) may be discharged.

C. REOPENER CLAUSE

In addition to any other grounds specified herein, this permit shall be modified or revoked at any time if, on the basis of any new data, the Director determines that continued discharges may cause unreasonable degradation of the marine environment.

D. REPORTING OF MONITORING RESULTS

Monitoring results obtained during the previous 3 months shall be summarized and reported on a Discharge Monitoring Report Form, EPA No. 3320-1 (DMR). Additional information required by this permit for the discharges during the period covered by the DMR shall be provided as a supplemental report. The DMR form and any supplemental information shall be postmarked no later than the 28th day of the month following the completed reporting period. The first report is due . Signed and certified copies of these reports shall be submitted to the Regional Administrator at the following address:

Regional Administrator
Environmental Protection Agency
Region 9, Attn: WTR-7
75 Hawthorne Street
San Francisco, CA 94105

E. DEFINITIONS

"Average monthly discharge limitation" means the highest allowable average of "daily discharges" over a calendar month, calculated as the sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.

"CWA" means the Clean Water Act (formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972) Pub. L. 92-500, as amended by Pub. L. 95-217, Pub. L. 95-576, Pub. L. 95-483 and Pub. L. 97-117, 33 U.S.C. 1251 et seq.

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“Daily discharge” means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. The daily discharge is calculated as the average measurement of the pollutant over the day.

"Deck drainage" shall refer to any waste resulting from deck washings, spillage, rainwater, and runoff from gutters and drains including drip pans and work areas within the facility.

“Desalination unit wastes” means brine wastewater associated with the process of creating fresh water from seawater.

“Director” means the Director, Water Division of EPA, Region 9.

“Garbage” means all kinds of food wastes, wastes generated in living areas on the facility, and operational waste generated during the normal operation of the facility and liable to be disposed of continuously or periodically, except dishwater, graywater, and those substances that are defined or listed in other Annexes to MARPOL 73/78.

"Grab" sample is a single sample collected at a particular time and place that represents the composition of the wastestream only at that time and place.

“Gray Water” means drainage from dishwater, shower, laundry, bath, and washbasin drains and does not include drainage from toilets, urinals, hospitals, and cargo spaces.

“Maintenance waste” means materials collected while maintaining and operating the facility, including, but not limited to, soot, machinery deposits, scraped paint, deck sweepings, wiping wastes, and rags.

"Maximum daily discharge limitation" means the highest allowable "daily discharge."

"No discharge of free oil" shall mean that waste streams may not be discharged when they would cause a film or sheen upon or a discoloration of the surface of the receiving water.

“Operational waste” means all cargo associated waste, maintenance waste, cargo residues, and ashes and clinkers from incinerators and coal burning boilers.

"Permittee" means the BHP Billiton LNG International Inc.

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“Submerged combustion vaporizer (SCV) wastewater” means excess water generated in the SCV chambers resulting from the condensation of water vapor from the combustion of the natural gas which is used to heat the water bath in the SCV chambers.

"Waters of the United States" means:

- (a) all waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;
- (b) all interstate waters, including interstate "wetlands;"
- (c) all other waters such as intrastate lakes, rivers, streams (including intermittent streams, mudflats, sandflats, "wetlands," sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds) the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters:
 - (1) which are or could be used by interstate or foreign travelers for recreational or other purposes;
 - (2) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or
 - (3) which are used or could be used for industrial purposes by industries in interstate commerce;
- (d) all impoundments of waters otherwise defined as waters of the United States under this definition;
- (e) tributaries of waters identified in paragraphs (a) through (d) of this definition;
- (f) the territory sea; and
- (g) wetlands adjacent to areas (other than waters that are themselves wetlands) identified in paragraphs (a) through (f) of this definition.

Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of CWA (other than cooling ponds as defined in 40 CFR 423.11(m) which also meet the criteria of this definition) are not waters of the United States. This exclusion applies only to man-made bodies of water which neither were originally created in waters of the United States (such as disposal area in wetlands) nor resulted from the impoundment of waters of the United States.

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PART II - EPA REGION 9 STANDARD FEDERAL NPDES PERMIT CONDITIONS

1. Duty to Reapply [40 CFR 122.21(b)]

The permittee shall submit a new application 180 days before the existing permit expires.

2. Applications [40 CFR 122.22]

a. All permit applications shall be signed as follows:

(1) For a corporation. by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means:

(i) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or

(ii) the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(2) For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or

(3) For a municipality, State, Federal, or other public agency. By either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a Federal agency includes: (i) the chief executive officer of the agency, or (ii) the senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of EPA).

b. All reports required by permits and other information requested by the Director shall be signed by a person described in paragraph (a) of this section, or by a duly authorized representative or representatives of that person. A person is a duly authorized representative only if:

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- (1) The authorization is made in writing by a person described in paragraph (a) of this Section;
 - (2) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company, (A duly authorized representative may thus be either a named individual or any individual occupying a named position.) and,
 - (3) The written authorization is submitted to the Director.
- c. Changes to authorization. If an authorization under paragraph (b) of this section is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or a portion of the facility, a new authorization satisfying the requirements of paragraph (b) of this section must be submitted to the Director prior to or together with any reports, information, or applications to be signed by an authorized representative.
- d. Certification. Any person signing a document under paragraph (a) or (b) of this section shall make the following certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

3. Duty to Comply [40 CFR 122.41(a)]

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application.

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- a. The permittee shall comply with effluent standards or prohibitions established under section 307(a) of the Clean Water Act for toxic pollutants within the time provided in the regulations that establish these standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.
- b. The Clean Water Act provides that:
 - (1) Any person who causes a violation of any condition in this permit is subject to a civil penalty not to exceed \$25,000 per day of each violation. Any person who negligently causes a violation of any condition in this permit is subject to a fine of not less than \$2,500 nor more than \$25,000 per day of violation, or by imprisonment for not more than one year, or both for a first conviction. For a second conviction, such a person is subject to a fine of not more than \$50,000 per day of violation, or by imprisonment for not more than two years, or both. [Updated pursuant to the Water Quality Act of 1987]
 - (2) Any person who knowingly causes violation of any condition of this permit is subject to fine of not less than \$5,000 nor more than \$50,000 per day of violation, or by imprisonment for not more than three years, or by both for a first conviction. For a second conviction, such a person is subject to a fine of not more than \$100,000 per day of violation, or by imprisonment of not more than six years, or both. [Updated pursuant to the Water Quality Act of 1987]
 - (3) Any person who knowingly causes a violation of any condition of this permit and, by so doing, knows at that time that he thereby places another in imminent danger of death or serious bodily injury shall be subject to a fine or not more than \$250,000, or imprisonment of not more than 15 years, or both. A person who is an organization and violates this provision shall be subject to a fine or not more than \$1,000,000 for a first conviction. For a second conviction under this provision, the maximum fine and imprisonment shall be doubled. [Updated pursuant to the Water Quality Act of 1987]

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4. Need to Halt or Reduce Activity Not a Defense [40 CFR 122.41(c)]

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

5. Duty to Mitigate [40 CFR 122.41(d)]

The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

6. Proper Operation and Maintenance [40 CFR 122.41(e)]

The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

7. Permit Actions [40 CFR 122.41(f)]

The permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

8. Property Rights [40 CFR 122.41 (g)]

This permit does not convey any property rights of any sort, or any exclusive privilege.

9. Duty to Provide Information [40 CFR 122.41(h)]

The permittee shall furnish to the Director, within a reasonable time, any information which the Director may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this

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permit. The permittee shall also furnish to the Director upon request, copies of records required to be kept by this permit.

10. Inspection and Entry [40 CFR 122.41(i)]

The permittee shall allow the Director, or an authorized representative, upon the presentation of credential and other documents as may be required by law, to:

- a. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
- b. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
- c. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
- d. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act, any substances or parameters at any location.

11. Monitoring and Records [40 CFR 122.41(j)]

- a. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.
- b. The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three years from the date of the sample, measurement, report or application. This period may be extended by request of the Director at any time.
- c. Records of monitoring information shall include:
 - (1) The date, exact place, and time of sampling or measurements;

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- (2) The individual(s) who performed the sampling or measurements;
 - (3) The date(s) analyses were performed;
 - (4) The individual(s) who performed the analyses;
 - (5) The analytical techniques or methods used; and
 - (6) The results of such analyses.
- d. Monitoring must be conducted according to test procedures approved under 40 CFR Part 136, unless test procedures have been specified in this permit.
 - e. The Clean Water Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained in this permit shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than two years per violation, or by both for a first conviction. For a second conviction, such a person is subject to a fine of not more than \$20,000 per day of violation, or imprisonment for not more than four years, or both. [Updated pursuant to the Water Quality Act of 1987]
12. Signatory requirement [40 CFR 122.41(k)]
- a. All applications, reports or information submitted to the Director shall be signed and certified. (See 40 CFR 122.22)
 - b. The CWA provides that any person who knowingly makes any false statement, representation, or certification in any record other document submitted or required to be maintained under this permit, including monitoring reports of compliance or noncompliance shall, upon conviction, be punished by a fine or not more than \$10,000 per violation, or by imprisonment for not more than two years per violation, or by both for a first conviction. For a second conviction, such a person is subject to fine of not more than \$20,000 per day of violation, or imprisonment of not more than four years, or both. [Updated pursuant to the Water Quality Act of 1987]

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13. Reporting requirements [40 CFR 122.41(l)]

- a. Planned changes. The permittee shall give notice to the Director as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:
 - (1) The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in Section 122.29(b); or
 - (2) The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under Section 122.42(a)(1).
- b. Anticipated noncompliance. The permittee shall give advance notice to the Director of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.
- c. Transfers. This permit is not transferable to any person except after notice to the Director. The Director may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under the Clean Water Act. (See Section 122.61; in some cases, modification or revocation and reissuance is mandatory.)
- d. Monitoring reports. Monitoring results shall be reported at the intervals specified elsewhere in this permit.
 1. Monitoring results must be reported on a Discharge Monitoring Report (DMR).
 - (2) If the permittee monitors any pollutant more frequently than required by the permit using test procedures approved under 40 CFR Part 136, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR or sludge reporting form specified by the Director.
 - (3) Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the Director in the permit.

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- e. Compliance schedules. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.
- f. Twenty-four hour reporting.
 - (1) The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.
 - (2) The following shall be included as information which must be reported within 24 hours under this paragraph.
 - (i) Any unanticipated bypass which exceeds any effluent limitation in the permit. (See §§122.41(g).
 - (ii) Any upset which exceeds any effluent limitation in the permit.
 - (iii) Violation of a maximum daily discharge limitation for any of the pollutants listed by the Director in the permit to be reported within 24 hours. (See Section 122.44(g).)
 - (3) The Director may waive the written report on a case-by-case basis for reports under paragraph (f)(2) of this section if the oral report has been received within 24 hours.
- g. Other noncompliance. The permittee shall report all instances of noncompliance not reported under paragraphs (d), (e), and (f) of this section, at the time monitoring reports are submitted. The reports shall contain the information listed in paragraph (f) of this section.

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- h. Other information. Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Director, it shall promptly submit such facts or information.
14. Bypass [40 CFR 122.41(m)]
- a. Definitions
 - (1) “Bypass” means the intentional diversion of waste streams from any portion of a treatment facility.
 - (2) “Severe property damage” means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
 - b. Bypass not Exceeding Limitations. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs (c) and (d) of this section.
 - c. Notice.
 - (1) Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, of possible at least ten days before the date of the bypass.
 - (2) Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in paragraph (f) of section (13) (24-hour notice).
 - d. Prohibition of bypass.
 - (1) Bypasses are prohibited, and the Director may take enforcement action against a permittee for a bypass, unless:

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- (i) A bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - (ii) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance, and
 - (iii) The permittee submitted notices as required under paragraph (c) of this section.
- (2) The Director may approve an anticipated bypass, after considering its adverse effects, if the director determines it will meet the three conditions listed above in paragraph (d) of this section.

15. Upset [40 CFR 122.41(n)]

- a. Definition. “Upset” means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation.
- b. Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology based permit effluent limitations if the requirement of paragraph (c) of this section are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.
- c. Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

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- (1) An upset occurred and that the permittee can identify the cause(s) of the upset;
- (2) The permitted facility was at the time being properly operated; and
- (3) The permittee submitted notice of the upset as required in paragraph (13)(f) (24-hour notice).
- (4) The permittee complied with any remedial measures required under 40 CFR 122.41(d).

- d. Burden of proof. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

16. Termination of permits [40 CFR 122.64]

The following are causes for terminating a permit during its term, or for denying a permit renewal application:

- a. Noncompliance by the permittee with any condition of the permit;
- b. The permittee's failure in the application or during the permit issuance process to disclose fully all relevant facts, or the permittee's misrepresentation of any relevant facts at any time;
- c. A determination that the permitted activity endangers human health or the environment and can only be regulated to acceptable levels by permit modification or termination; or
- d. A change in any condition that requires either a temporary or a permanent reduction or elimination of any discharge controlled by the permit (for example, plant closure or termination of discharge by connection to a POTW).

17. Availability of Reports [Pursuant to Clean Water Act Section 308]

Except for data determined to be confidential under 40 CFR Part 2, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Regional Administrator. As required by the Act, permit applications, permits, and effluent data shall not be considered confidential.

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17. Removed Substances [Pursuant to Clean Water Act Section 301]

Solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of wastewaters shall be disposed of in a manner such as to prevent any pollutant from such materials from entering navigable waters.

18. Severability [Pursuant to Clean Water Act Section 512]

The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and remainder of the permit, shall not be affected thereby.

19. Civil and Criminal Liability [Pursuant to Clean Water Act Section 309]

Except as provided in permit conditions on “Bypass” (Section 14) and “Upset” (Section 15), nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance.

20. Oil and Hazardous Substance Liability [Pursuant to Clean Water Act Section 311]

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under Section 311 of the Clean Water Act.

21. State or Tribal Law [Pursuant to Clean Water Act Section 510]

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the operator from any legal action or relieve the operator from any responsibilities, liabilities, or penalties established pursuant to any applicable State or Tribal law or regulation under authority preserved by Section 510 of the Clean Water Act.

Attachment A to Permit No. CA0110997
Appendix A to 40 CFR Part 423--126 Priority Pollutants

001 Acenaphthene	047 Bromoform (tribromomethane)	090 Dieldrin
002 Acrolein	048 Dichlorobromomethane	091 Chlordane (technical mixture and metabolites)
003 Acrylonitrile	051 Chlorodibromomethane	092 4,4-DDT
004 Benzene	052 Hexachlorobutadiene	093 4,4-DDE (p,p-DDX)
005 Benzidine	053 Hexachloromyclopentadiene	094 4,4-DDD (p,p-TDE)
006 Carbon tetrachloride (tetrachloromethane)	054 Isophorone	095 Alpha-endosulfan
007 Chlorobenzene	055 Naphthalene	096 Beta-endosulfan
008 1,2,4-trichlorobenzene	056 Nitrobenzene	097 Endosulfan sulfate
009 Hexachlorobenzene	057 2-nitrophenol	098 Endrin
010 1,2-dichloroethane	058 4-nitrophenol	099 Endrin aldehyde
011 1,1,1-trichloroethane	059 2,4-dinitrophenol	100 Heptachlor
012 Hexachloroethane	060 4,6-dinitro-o-cresol	101 Heptachlor epoxide (BHC-hexachlorocyclohexane)
013 1,1-dichloroethane	061 N-nitrosodimethylamine	102 Alpha-BHC
014 1,1,2-trichloroethane	062 N-nitrosodiphenylamine	103 Beta-BHC
015 1,1,2,2-tetrachloroethane	063 N-nitrosodi-n-propylamine	104 Gamma-BHC (lindane)
016 Chloroethane	064 Pentachlorophenol	105 Delta-BHC (PCB-polychlorinated biphenyls)
018 Bis(2-chloroethyl) ether	065 Phenol	106 PCB-1242 (Arochlor 1242)
019 2-chloroethyl vinyl ether (mixed)	066 Bis(2-ethylhexyl) phthalate	107 PCB-1254 (Arochlor 1254)
020 2-chloronaphthalene	067 Butyl benzyl phthalate	108 PCB-1221 (Arochlor 1221)
021 2,4, 6-trichlorophenol	068 Di-N-Butyl Phthalate	109 PCB-1232 (Arochlor 1232)
022 Parachlorometa cresol	069 Di-n-octyl phthalate	110 PCB-1248 (Arochlor 1248)
023 Chloroform (trichloromethane)	070 Diethyl Phthalate	111 PCB-1260 (Arochlor 1260)
024 2-chlorophenol	071 Dimethyl phthalate	112 PCB-1016 (Arochlor 1016)
025 1,2-dichlorobenzene	072 1,2-benzanthracene (benzo(a) anthracene)	113 Toxaphene
026 1,3-dichlorobenzene	073 Benzo(a)pyrene (3,4-benzo-pyrene)	114 Antimony
027 1,4-dichlorobenzene	074 3,4-Benzofluoranthene (benzo(b) fluoranthene)	115 Arsenic
028 3,3-dichlorobenzidine	075 1,12-benzofluoranthene (benzo(b) fluoranthene)	116 Asbestos
029 1,1-dichloroethylene	076 Chrysene	117 Beryllium
030 1,2-trans-dichloroethylene	077 Acenaphthylene	118 Cadmium
031 2,4-dichlorophenol	078 Anthracene	119 Chromium
032 1,2-dichloropropane	079 1,12-benzoperylene (benzo(ghi) perylene)	120 Copper
033 1,2-dichloropropylene (1,3-dichloropropene)	080 Fluorene	121 Cyanide, Total
034 2,4-dimethylphenol	081 Phenanthrene	122 Lead
035 2,4-dinitrotoluene	082 1,2,5,6-dibenzanthracene (dibenzo(,h) anthracene)	123 Mercury
036 2,6-dinitrotoluene	083 Indeno (,1,2,3-cd) pyrene (2,3-o-pheynylene pyrene)	124 Nickel
037 1,2-diphenylhydrazine	084 Pyrene	125 Selenium
038 Ethylbenzene	085 Tetrachloroethylene	126 Silver
039 Fluoranthene	086 Toluene	126 Silver
040 4-chlorophenyl phenyl ether	087 Trichloroethylene	128 Zinc
041 4-bromophenyl phenyl ether	088 Vinyl chloride (chloroethylene)	129 2,3,7,8-tetrachloro-dibenzo-p-dioxin (TCDD)
042 Bis(2-chloroisopropyl) ether	089 Aldrin	
043 Bis(2-chloroethoxy) methane		
044 Methylene chloride (dichloromethane)		
045 Methyl chloride (dichloromethane)		
046 Methyl bromide (bromomethane)		